IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 04.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.442 of 2006

K.Eswaran ... Petitioner

Vs.

1. The State of Tamilnadu
   rep.by tis Secretary to Government,
   Prohibition and Excise Dept.,
   Fort St.George, Chennai-9.

2. The District Magistrate and
   District Collector
   Vellore

... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the entire records leading to the detention of the petitioner's brother Siva alias Sivasankaran son of Karpagam, under Act 14/82 vide detention order dated 11.4.2006 on the file of the second respondent herein, made in proceedings C3 D.O.No.43/2006. Quash the same and consequently direct the respondents to produce the body and person of the said detenu before this Hon'ble Court, and to set the detenu at libertyfrom Central Prison, Vellore.

For Petitioner : Mr.V.Parthiban
For Respondents : Mr.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.Sathasivam, J.)

The petitioner, who is the brother of the detenu by name Siva @ Sivasankaran, who was detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of

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Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 11.4.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 17.4.2006 was received by the Government on 19.4.2006. The remarks were called for on 20.4.2006. The said representation was received by the Collectorate from the Government on 21.4.2006 and parawar remarks were called for from sponsoring authority on 24.4.2006 and the remarks were received from sponsoring authority on 19.5.2006. Thereafter, the remarks were received by the Government on 25.5.2006 and the File was submitted on 25.5.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on 26.5.2006 and finally, the Minister for Prohibition and Excise passed orders on the same date i.e. on 26.5.2006. The rejection letter was prepared on 29.5.2006 and the same was sent to the detenu on 29.5.2006 itself and served to him on 1.6.2006. As rightly pointed out by the learned counsel for the petitioner, though the remarks were called for from sponsoring authority on 24.4.2006, the remarks were received from the sponsoring authority on 19.5.2006 only and there is no explanation at all for taking time for receiving remarks from sponsoring authority till 19.5.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for receiving the remarks from the sponsoring authority is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

ajr

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To

1. The Secretary to Government,
   Prohibition and Excise Dept.,
   Fort St.George, Chennai-9.
2. The District Magistrate and
   District Collector
   Vellore
3. The Superintendent,
   Central Prison, Vellore
   (In duplicate for communication to detenu)
4. The Joint Secretary to Government,
   Public (Law and Order)
   Fort St. George, Chennai-9.
5. The Public Prosecutor,
   High Court, Madras.

HCP. No.442 of 2006

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